



Appeal Decision

Site visit made on 1 June 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2020

Appeal Ref: APP/M1710/C/19/3243847

**Land at Bird in Hand, 269 Lovedean Lane, Horndean, Waterlooville
PO8 9RX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Sharon Cole against an enforcement notice issued by East Hampshire District Council.
 - The enforcement notice, numbered EC/26598/006/EODC, was issued on 29 November 2019.
 - The breach of planning control as alleged in the notice is the construction of raised timber decking with balustrades and a single storey side extension.
 - The requirements of the notice are:
 1. Remove from the land the raised decking platform as identified in the approximate position hatched black and annotated 'A' on the attached plan.
 2. Remove from the land the single storey side extension identified in the approximate position hatched green and annotated 'B' on the attached plan.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of raised timber decking with balustrades and a single storey side extension at Land at Bird in Hand, 269 Lovedean Lane, Horndean, Waterlooville PO8 9RX, as shown on the plan attached to the notice.

Ground (a) – The deemed application

Main Issues

2. Having considered the reasons why the Council issued the notice I consider the main issues are:
 - The effect of the development on the character and appearance of the area and the adjacent South Downs National Park (SDNP); and
 - The effect of the development on the living conditions of 263 Lovedean lane with reference to noise, overlooking, and loss of privacy.

Reasons

Character and appearance

3. The site is a substantial established public house located on the junction of Lovedean Lane and Day Lane. At the time of my site visit the premises were temporarily closed due to the Covid-19 restrictions. No 263 Lovedean lane and a commercial car sales premises lies to the south, with open countryside to the north.
4. It is important to clarify that the planning application (Ref: 26597/009), together with some of the evidence provided as part of this appeal, relates to the single storey extension, existing decking together with additional decking and the provision of three seasonal marquees. The enforcement notice however, only relates to the area of decking sited to the side of the main building and adjacent to No 263, and the single storey side extension. I have therefore considered the appeal on this more limited basis.
5. I note that the officers report for the above planning application found that the extension/lean to was acceptable in design and landscape terms, given its small scale and subservience to the main building. I have no reason to disagree with this view. Whilst I acknowledge that it would benefit from some cosmetic repair and maintenance, I consider that this does not make it unacceptable in principle.
6. The modest area of decking is elevated by some 0.5 metres at the highest point, where the land slopes down slightly towards the boundary with No 263. It is surrounded by timber balustrades and on land that is understood to have formed part of the external seating area.
7. The decking and extension can be seen from Lovedean Lane. However, given the distances involved and the existing vegetation and trees, I do not consider that they appear as overly dominant features in the street scene. The position of the decking to the side elevation of the building also means that it is not readily discernible from the wider area and countryside. Similarly, views from No 263 are likely to be minimal, given the existing drive, fence and boundary vegetation.
8. Although distinctive, the decking is a feature often found in this type of setting. Moreover, its position relative to the SDNP, does not cause significant visual harm. Accordingly, I consider the structures have had a neutral impact on the SDNP as a whole. I acknowledge that the development contrasts with the pre-existing position. Nonetheless, the structure is of a modest scale, when viewed in the context of the site, that this contrast cannot be said to have harmed the appearance of the host site or the wider area, to the extent that warrants the refusal of planning permission.
9. I find that in view of the neutral effect of the development on its surroundings, the character of the site and wider area is preserved, and there is therefore no material conflict with those provisions of policy CP20 and CP29 of The East Hampshire District Local Plan: Joint Core Strategy (2014) (LP) and saved policy HE2 of the East Hampshire District Local Plan (2006), designed to ensure that development is sympathetic to its setting and protects and enhances local distinctiveness.

Living conditions

10. When visiting the site, I saw that there was a vehicular access between the decking and No 263, together with a timber fence and substantial planting to the common boundary. When standing on the deck any views of the neighbouring were negligible and the screening prevented the internal privacy of the residents, or the part of the garden closest to the house, from being materially affected by those using the decking.
11. I acknowledge that there would be some noise and disturbance when the decking is in use, however the decks modest size would limit the number of people able to use it at any one time. Moreover, this would be similar to the pre-existing position when this part of the garden was used for customer seating.
12. Given that food and drink is already readily available from the main building and can be taken into the garden, it is considered that the use of the small extension to serve customers using the garden, would have a very limited effect on the overall activity within the garden.
13. On balance, I conclude that the development is not unacceptably harmful to the occupiers of No 263, in terms of noise, overlooking, and loss of privacy. Accordingly, it complies with saved policy CP27 and CP29 of the LP, which seek to ensure that new development does not result in an unacceptable effect on the amenity of the occupiers of neighbouring properties.

Other Matters and conditions

14. I have had regard to the matters raised by the adjoining residents. I note that some of these concerns relate to the use of the extended decking in connection with the marquees. I acknowledge that the use of the decking is likely to be greater, if used in connection with large private events. However, it is the effect of the existing decking and extension alone, that falls to be considered as part of this appeal. I also appreciate the frustration when there are delays in the process, although such matters fall outside the scope of this appeal.
15. The Council have not put forward any suggested conditions. I have carefully considered resident's concerns about increased noise. Bearing in mind that the majority of public houses have sitting out areas, I am not persuaded, from the information provided, that the subject development results in an increase in noise disturbance over and above the previous position, such that a controlling condition is necessary.

Conclusion

16. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the construction of timber decking with balustrades, and a single storey side extension as described in the notice. The appeals on grounds (f) and (g) do not therefore fall to be considered.

Hilary Orr

INSPECTOR